

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**January 8, 2001**

**IN RE: UNIVERSAL SERVICE PROCEEDING**

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**DOCKET NO. 97-00888**

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**ORDER DESIGNATING BEN LOMAND COMMUNICATIONS, INC.  
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER**

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This matter came before the Tennessee Regulatory Authority (the "Authority") at the regularly scheduled Authority Conference held on July 11, 2000, upon the Motion of Ben Lomand Communications, Inc. ("BLC") for designation as an Eligible Telecommunications Carrier pursuant to Section 214(e) of the Telecommunications Act of 1996 (the "1996 Act") and Federal Communications Commission ("FCC") Order 97-157.

**Background**

Section 254 of the 1996 Act provides that in order to receive Federal Universal Service support a telecommunications carrier must be designated as an Eligible Telecommunications Carrier ("ETC").<sup>1</sup> To receive ETC designation, a carrier must offer all services supported by the Federal Universal Service mechanism throughout its designated service area. Additionally, the carrier must advertise, using media of general distribution, the availability of services and the charges for those services. Finally, ETCs must be facilities-based; i.e. they must provide

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<sup>1</sup> 47 U.S.C. § 254(e).

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services from their own facilities, including unbundled network elements or some combination thereof.

Furthermore, Section 214(e)(2) of the 1996 Act provides that state commissions, either upon their own motion or upon request, may designate a carrier as an ETC for a designated service area.<sup>2</sup> State commissions may also designate more than one ETC for a service area served by a rural telecommunications company if such action is deemed consistent with the public interest.<sup>3</sup>

On February 16, 1999, the Authority granted BLC a certificate of public convenience and necessity to operate as a competitive local exchange carrier (“CLEC”).<sup>4</sup> BLC currently operates as a CLEC in Warren and White Counties. Two other ETCs provide service in those counties: Ben Lomand Rural Telephone Cooperative, the parent company of BLC, and Citizens Telecommunications Company, which serves the cities of Sparta and McMinnville.

#### **Ben Lomand Communications, Inc.’s Motion**

BLC filed its Motion on June 5, 2000. In support of its Motion, BLC filed a statement indicating that it will provide all services and functions in its designated service area that are required by the FCC to be eligible for Federal Universal Service support.<sup>5</sup> BLC avers that it will comply with the FCC’s Universal Service requirements as set forth in 47 CFR §§ 54.201 through 54.207.

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<sup>2</sup> 47 U.S.C. § 214(e)(2).

<sup>3</sup> *Id.*

<sup>4</sup> See *Order Granting Certificate of Public Convenience and Necessity*, Docket No. 98-00600, April 28, 1999.

<sup>5</sup> In an Order in this docket (No. 97-00888) issued on November 3, 1997, the Authority required that a carrier seeking designation as an ETC file a sworn statement by a senior official stating that the carrier will provide all supported services enumerated in 47 C.F.R. § 54.101. That section requires support of the following services or functionalities: voice-grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, toll limitation for qualifying low-income consumers, and a requirement to offer all designated services.

In its Motion, BLC states that providing toll limitation service, as required for ETC status by 47 C.F.R. § 54.101, is “virtually beyond the capacities of a rural LEC [local exchange carrier],” although BLC indicates that toll blocking is feasible.<sup>6</sup> However, on December 30, 1997, the FCC clarified its position on toll limitation technology in its Fourth Order on Reconsideration in CC Docket No. 96-45, Report and Order in CC Docket Nos. 96-45, 96-262, 91-213, and 95-72.<sup>7</sup> The FCC’s Order states that ETCs must provide at least one type of toll limitation service, defining toll limitation service as toll blocking or toll control. Therefore, the provision of toll blocking, which is technically feasible for small LECs, is sufficient to comply with 47 C.F.R. § 54.101.

### **Findings**

Because the whole of BLC’s service area is already served by other designated ETCs, granting BLC’s Motion to be designated an additional ETC in this area requires a finding that such action is in the public interest. ETC status facilitates the competitiveness of a CLEC, allowing the CLEC to expand its operations into high-cost areas and serve a broad range of customers, as ETC status is required to collect Lifeline and Linkup payments. The benefits of viable competition are in the public interest. For these reasons, the Authority concludes that designation of an additional ETC in White and Warren Counties is consistent with the public interest. The Authority further finds that BLC has demonstrated that it will offer the services supported by Federal Universal Service support mechanisms, that such services will be facilities-based, and that it is capable of providing sufficient toll limitation as required by FCC regulations. Therefore, the Authority finds that BLC’s Motion should be granted and BLC should be designated as an ETC in White and Warren Counties.

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<sup>6</sup> Motion, June 5, 2000, p. 4.


<sup>7</sup> *Fourth Order on Reconsideration*, FCC 97-420, December 30, 1997.

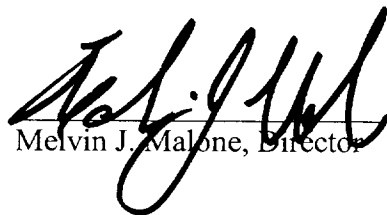
At the regularly scheduled Authority Conference held on July 11, 2000, upon careful consideration of BLC's motion and of the entire record in this matter, the Directors unanimously granted BLC's Motion.

**IT IS THEREFORE ORDERED THAT:**

1. The Motion of Ben Lomand Communications, Inc. to be designated an Eligible Telecommunications Carrier is granted;
2. Ben Lomand Communications, Inc. is designated to be an Eligible Telecommunications Carrier in Warren and White Counties; and
3. Any party aggrieved with the Authority's decision in this matter may file a Petition for Reconsideration with the Authority within fifteen (15) days from and after the date of this Order.

  
Sara Kyle, Chairman

  
H. Lynn Greer, Jr., Director

  
Melvin J. Malone, Director

ATTEST:

  
K. David Waddell, Executive Secretary